# Neg- Greenhill Race Aff- TOC – Nirmal

## Strat

#### Break a New PIC

#### Then turn the aff for the rest of the time

### CX Notes

1.

## Case

### Hate Speech- Top Level

#### Harrassment decreasing on campus now- proves codes are effective

Sutton 16 Halley Sutton, Report shows crime on campus down across the country, Campus Security Report 13.4 (2016), 9/9/16,http://onlinelibrary.wiley.com/doi/10.1002/casr.30185/full //

A recent report released by the National Center for Education Statistics found an overall decrease in crimes at educational institutions across the country since 2001. The overall number of crimes reported by postsecondary institutions has dropped by 34 percent, from 41,600 per year in 2001 to 27,600 per year in 2013. The report, titled Indicators of School Crime and Safety: 2015, covers higher education campuses as well as K–12 schools and includes such topics as victimization, teacher injury, bullying and cyberbullying, use of drugs and alcohol, and criminal incidents at postsecondary institutions. The report found significant decreases in instances of bullying, harassment due to sexual orientation, and violent crime at all levels of education. The number of on-campus crimes reported at postsecondary institutions in 2013 was lower than in 2001 for every category except forcible sex offenses and murder.

#### Hate speech is constitutionally protected- the aff restricts it

**Moore 16** [Social Studies Research and Practice www.socstrp.org Volume 11 Number 1 112 Spring 2016 You Cannot Say That in American Schools: Attacks on the First Amendment James R. Moore Cleveland State University]

**The first amendment**, a crucial component of American constitutional law, **is under attack from** various **groups** **advocating for censorship in universities** and public schools. The censors assert that restrictive speech codes preventing anyone from engaging in any expression deemed hateful, offensive, defamatory, insulting, or critical of sacred religious or political beliefs and values are necessary in a multicultural society. These speech codes restrict critical comments about race, religion, gender, sexual orientation, physical characteristics, and other traits in the name of tolerance, sensitivity, and respect. Many **hate speech codes are a violation of the first amendment** **and have been struck down** **by** federal and state **courts**. **They persist** in jurisdictions where they have been ruled unconstitutional; **most** universities and **public schools have speech** **codes**. This assault on the first amendment might be a concern to all citizens, especially university professors and social studies educators responsible for teaching students about the democratic ideals enshrined in our constitution. Teachers should resist unconstitutional speech codes and teach their students that the purpose of the first amendment is to protect radical, offensive, critical, and controversial speech. The first amendment in the Bill of Rights, the foundation of individual freedom in the United States, protecting the freedoms of religion, speech, press, assembly, and petition. These basic freedoms, derived from Enlightenment philosophy and codified in the world’s oldest written constitution, have been an essential characteristic of American democracy and law since 1791. This is continuity considering “between 1971 and 1990, 110 of the world’s 162 national constitutions were either written or extensively rewritten” (Haynes, Chaltain, Ferguson, Hudson, & Thomas, 2003, p. 9). The first amendment has been the conduit employed by U.S. citizens to create an increasingly free and just society based on the constitutional ideals of equality before the law, popular sovereignty, limited government, checks and balances, federalism, and individual liberties (Center for Civic Education, 2009). Advocates for the abolition of slavery and the expansion of civil rights were able, after long struggles, to achieve their goals of expanding freedom and social justice by using their natural rights to free expression and religious liberty (Dye, 2011). Since no constitutional liberty or right is absolute, American institutions continuously debate the definitions, limitations, and exceptions to these fundamental rights based on social, political, and technological changes. This task has been exacerbated by increasing cultural diversity and technological changes (the Internet and social media) that expand communication. In addition, efforts by some people to censor language in the name of tolerance and respect for diversity have increased in recent years (Foundation for Individual Rights in Education, 2013, p.4). The first amendment is the world’s oldest written safeguard for freedom of expression—this includes allowing blasphemy and expression that may be radical, offensive, controversial, ignorant, and militantly bigoted—and is the cornerstone of participatory democracy (Haynes et al., 2003). The first amendment is under constant attack from some religious organizations, political action groups, ethnically-based activist groups, and, most alarmingly, from American public universities that severely restrict freedom of expression and public debate (Foundation for Individual Rights in Education, 2013; Haynes, 2013; Hudson, 2011). The Foundation for Individual Rights in Education (2013) found “**62% of universities** (254 out of 409 universities in the survey) **maintain** severely **restrictive** **red-light speech codes** – **policies that** clearly and **substantially prohibit protected speech**” (p. 4). Many Americans do not understand, or do not accept, that the first amendment protects unpopular, offensive, controversial, and radical speech; this includes making hateful statements about race, gender, religion, and any other topic the speaker wishes to address (Haynes et al., 2003; Marshall & Shea, 2011; Pew Forum on Religion and Public Life, 2010). Many hate **speech codes**, thus, often are defined “as hostile or prejudicial attitudes expressed toward another person’s or group’s characteristics, notably sex, race, ethnicity, religion, or sexual orientation” (Dye 2011, p. 508). The hate speech instituted in American universities and Kindergarten-12 schools **are** often, albeit well-intended, **violations of the First Amendment** (Foundation for Individual Rights in Education; Haynes, 2013; *Saxe V. State College Area School District*, 2001).

#### Speech codes solve – empirics and social studies.

**Gould ’10** (Jon B. Gould is a professor in the Department of Justice, Law and Society and at the Washington College of Law at American University, where he is also director of the Washington Institute for Public and International Affairs Research. 2010-02-15, University of Chicago Press, “Speak No Evil: The Triumph of Hate Speech Regulation” | SP)

Yet the very adoption of hate speech policies has influenced behavior on several campuses. This point was repeated to me by many administrators at the schools I visited, who reported the rise of a “culture of civility” that eschews, if not informally sanctions, hateful speech. “Don’t mistake symbolism for impotence,” they regularly reminded me. Symbols shape and reflect social meaning, providing cues to the community about the range of acceptable behavior. Adopting a hate speech policy, then, could have persuasive power even if it were rarely enforced. Consider the dean of students at a northeastern liberal arts college, who spoke proudly of her school’s hate speech policy. Had the policy been formally invoked, I asked. “Rarely,” she told me, but the measure “sets a standard on campus. It gives us something we can point our finger to in the catalog to remind students of the expectations and rights we all have in the community.” This sentiment was repeated by the president of a well-known institution, who claimed that “we didn’t set out to enforce the policy punitively but to use it as the basis for our educational efforts at respecting individuality.” Still another administrator admitted that, “while we’ve rarely used the policy formally, it does give support to students who believe their rights have been violated. They’ll come in for informal mediation and point to the policy as the reason for why the other person must stop harassing them.” Sociologists would call this process norm production— that symbolic measures can condition and order behavior without the actual implementation of punitive mechanisms. 8 Hate speech policies set an expected standard of behavior on campus; college officials employ orientation sessions, extracurricular programs, and campus dialogue to inculcate and spread the message; and over time an expectation begins to take root that hate speech is unacceptable and should be prohibited. Of course, this mechanism makes regulation a self-policing exercise— colleges need not take formal or punitive action— but the effect is to perpetuate a collective norm that sees hate speech as undesirable and worthy of prohibition. Moreover, considering the isomorphic tendencies of college administrators, the creation of speech policies— or speech norms— at respected and prestigious institutions has a “trickle down” effect throughout academe. Again, sociologists would call this process normative isomorphism, but most people know the phenomenon as “keeping up with the Joneses.” 9 If Harvard, Berkeley, or Brown passes measures against hate speech, then institutions lower in the academic food chain are likely to take note and follow suit. If prestigious institutions advance campus norms that eschew hate speech, then both peer and “wannabe” institutions are likely to consider and replicate such informal rules. Indeed, this is the very fear of FIRE and its compatriots— that if PC policies are not checked now, their message will spread throughout academe infecting other campuses. What FIRE fails to say, but undoubtedly must be thinking, is that informal law and mass constitutionalism are at stake if the spread of speech regulation is not curbed. FIRE can hang its hat on R.A.V., Doe, UWM Post, and the other court cases in which judges have overturned college hate speech policies, but as hate speech regulation continues to flourish on college campuses, informal speech norms are at stake throughout the larger bounds of civil society.Whatever one thinks of FIRE and its agenda, its supporters are like the oldfashioned fire brigade that excitedly shows up at a burning building only to toss paltry pails of water on the inferno. Hate speech regulation has already crossed the firebreak between academe and the rest of civil society and is well on its way toward acceptance in other influential institutions. The initial signs are found in surveys of incoming college freshmen. Shortly after R.A.V., researchers began asking new freshmen whether they believe that “colleges should prohibit racist/sexist speech on campus.” 10 In a 1993 survey, 58 percent of first-year students supported hate speech regulation, a number that has stayed steady and even grown a bit in the years following. By 1994, two thirds of incoming freshmen approved of hate speech prohibitions, with more recent results leveling off around 60 percent. 11 Unfortunately, there are not similar surveys before 1993 to compare these results against, but it is a safe bet that support would have been minimal through the mid-1980s when the issue had not yet achieved salience. More to the point, the surveys show that support for speech regulation is achieved before students ever set foot on campus. If, as the codes’ opponents claim, colleges are indoctrinating students in favor of speech regulation, the influence has reached beyond campus borders. New students are being socialized to this norm in society even before they attend college.

#### Speech codes are good– they diminish right-wing movements and form coalitions of targeted groups.

**Parekh 12** [Parekh, Bhikhu (2012) ‘Is There a Case for Banning Hate Speech?’, in Herz, M. and Molnar, P. (eds.) The Content and Context of Hate Speech: Rethinking Regulation and Responses. Cambridge: Cambridge University Press, pp. 37–56. ]

It is sometimes argued that banning hate speech drives extremist groups under- ground and leaves us no means of knowing who they are and how much support they enjoy. It also alienates them from the wider society, even makes them more detennined. and helps them recruit those attracted by the allure of forbidden fruit. This is an important argument and its force should not be underestimated. How- eyer, it has its limits. A ban on hate speech might drive extremist groups underground, but it also persuades their moderate and law-abiding members to dissociate them- selves from these groups. When extremist groups go underground, they are denied the oxygen of publicity and the aura of public respectability. This makes their operations more difficult and denies them the opportunity to link up with other similar groups and recruit their members. While the ban might alienate extremist groups, it has the compensating advantage of securing the enthusiastic commitment and support of their target groups. Besides, beyond a certain point, alienation need not be a source of worry. Some religious groups are alienated from the secular orientation of the liberal state, inst as the communists and polyamoronsly inclined persons bitterly resent its commitment (respectively) to market economy and rnonogamy. We accept such forms of alien- ation as inherent in collective life and do not seek to redress them by abandoning the liberal state. The ban might harden the determination of some, but it is also likely to weaken that of those who seek respectability and do not want to be associated with ideas and groups considered so disreputable as to be banned, or who are deterred by the cost involved in supporting them. There is the lure of the prohibited, but there is also the attraction of the respectable.

#### Turns the case and outweighs

#### 1. Magnitude- Hate speech normalizes psychological violence which renders educational spaces null and increases likelihood of physical violence

* Makes physical violence more likely—empirically proven
* Causes psychological harms
* Makes educational spaces null and void
* Normalizes oppressive practices
* Easy to reject from a position of privilege

**Heinze 14**: Eric Heinze, professor of law & humanities at Queen Mary university of London. March 31, 2014. Nineteen arguments for hate speech bans—and against them. Free Speech Debate. Free speech scholar Eric Heinze identifies the main arguments for laws restricting hate speech and says none are valid for mature Western democracies. <http://freespeechdebate.com/en/discuss/nineteen-arguments-for-hate-speech-bans-and-against-them/>. RW

On all sides of the debate, we can agree that speech is necessary for democracy. Governments ought not to abridge speech willy-nilly. They must show how the speech in question poses a genuine danger. In the case of hate speech, has any such menace been shown? In my book [Hate Speech and Democratic Citizenship](https://global.oup.com/academic/product/hate-speech-and-democratic-citizenship-9780198759027?cc=gb&lang=en&), I reject the classical liberal defences of free speech, let alone newer libertarian ones. I argue that the strongest case for free speech is grounded on specifically democratic principles, which must not be confused with Millian, liberal ones. I cannot reproduce that thesis here, but will briefly respond to some familiar claims raised by the bans’ advocates. 1. The ‘anti-absolutist’ argument: ‘No rights are absolute. Rights must be limited by respect for others, and by the needs of society as a whole. The British Lord Bhikhu Parekh writes, “Although free speech is an important value, it is not the only one. Human dignity, equality, freedom to live without harassment and intimidation, social harmony, mutual respect, and protection of one’s good name and honour are also central to the good life and deserve to be safeguarded. Because these values conflict, either inherently or in particular contexts, they need to be balanced.” There are, moreover, many regulations of speech to which no one objects, punishing, for example, commercial fraud, graffiti, or courtroom perjury. Hate speech bans are no different.’ The ‘not speech’ argument: ‘The crudest hate speech is not really speech at all. It is merely the kind of “inarticulate grunt” that can legitimately be banned because it forms, in the words of US Supreme Court Justice Anthony Kennedy, “no essential part of any exposition of ideas.”’ The ‘Weimar’ (or ‘snowball’) argument: ‘Democracy under the Weimar Republic or the former Yugoslavia show that too much free speech leads to atrocities. Some offensive remarks may, on the surface, appear harmless. But seemingly innocuous offences snowball into more pernicious forms. Once speech reaches a Nazi-like extreme, it becomes too late to avert the dangerous consequences.’ The ‘direct harm’ argument: ‘Hate speech can cause psychological harm, just as hate-motivated violence causes physical harm. Children who are called “nigger”, “Paki”, or “queer” suffer just as much as when they are physically bullied. For adults, verbal abuse can render workplace, educational or other environments unbearable.’ The ‘indirect harm’ argument: ‘The harms of hate speech do not manifest in a conventionally empirical sense. From some phenomenological and socio-linguistic perspectives, hateful expression is “illocutionary”, i.e. not merely denoting hatred but enacting discrimination, and “perlocutionary”, disseminating adverse psychological effects regardless of any materially evident impact. Anthony Cortese describes a “cultural transmission theory”, whereby cultures “pass hate on to each succeeding generation, making intolerance “normal or conventional.” Hate speech germinates intolerance, not through discrete, causally traceable chains of events, but through cumulative effects.’ The ‘hate crime’ argument: ‘The bans are necessary because hate speech is commonly connected to hate-based acts of murder, battery, rape, assault, and property theft or damage.’ The ‘disproportionate impact’ argument: ‘It’s easy for those in privileged positions to oppose hate speech bans. They do not bear the brunt of hatred. But “individual freedom” looks different from the viewpoint of historically vilified groups.’

#### Turns counterspeech- psychological violence hurts ability to participate in the movement

#### 2. Inclusivity- It causes less discursive participation from minorities which harms ability to reach the truth

**Horne 16**: Solveigh Horne, Minister of children and equality in Norway. “hate speech—a threat to freedom of speech.” March 8, 2016. Huffington Post. <http://www.huffingtonpost.com/solveig-horne/hate-speech--a-threat-to_b_9406596.html>. RW

Hate speech in the public sphere takes place online and offline, and affects young girls and boys, women and men. We also see hate speech attacking vulnerable groups like people with disabilities, LGBT-persons and other minority groups. Social media and the Internet have opened up for many new arenas for exchanging opinions. Freedom of speech is an absolute value in any democracy, both for the public and for the media. At the same time, opinions and debates challenge us as hate speech are spread widely and frequently on new platforms for publishing. Hate speech may cause fear and can be the reason why people withdraw from the public debate. The result being that important voices that should be heard in the public debate are silenced. We all benefit if we foster an environment where everybody is able to express their opinions without experiencing hate speech. In this matter we all have a responsibility. I am especially concerned about women and girls being silenced. Attempts to silence women in the public debate through hate speech, are an attack on women’s human rights. No one should be silenced or subjected to threats when expressing themselves in public. Women are under-represented in the media. In order to get a balanced public debate it is important that many voices are heard. We must encourage women and girls to be equal participants with men. Hate speech prevents women from making their voices heard. I also call upon the media to take responsibility in this matter. In some cases the media may provide a platform for hate speech. At the same time, I would like to stress that a liberal democracy like Norway strongly supports freedom of speech as a fundamental right.

### \*\*Adv 1: Censorship\*\*

### AT: Chaterjee/Maira

#### 1. Appeals to academic freedom masks systemic violence, constrain critical debates, and are coopted by larger power structures

**Chatterjee and Maira 14**, [Piya Chatterjee and Sunaina Maira, “Introduction The Imperial University: Race, War, and the Nation-State.” In Academic Repression and Scholarly Dissent. Minneapolis, US: Univ Of Minnesota Press, 2014. http://www.jstor.org/stable/10.5749/j.ctt6wr7wn.3]

Steven Best, Anthony Nocella II, and Peter McLaren, in their edited vol- ume on academic repression, incisively observe that academic freedom, in fact, functions as an “alibi for the machinery of academic repression and control” and ends up justifying the “absorption of higher education into the larger constellation of corporate-military power.”95 Academic repression, they argue, is constitutive of the academic-military-industrial complex, a framework that situates the university squarely within, and not outside of, the network of state apparatuses of control, discipline, surveillance, carcer- ality, and violence, as alluded to by Dominguez and as argued by Godrej, Oparah, and Gumbs. In other words, as Taraki and Barghouti also suggest, it does not make sense (for progressives-le ists) to ght for academic free- dom outside of the struggle against neoliberal capitalism, racism, sexism, homophobia, warfare, and imperialism. To state it more clearly, there can be no true “freedom” in the academy if there is no such freedom in society at large.96 The holy grail of academic freedom, de ned within the liberal param- eters critiqued by Prashad, has been institutionalized as a limited and prob- lematic horizon for progressive academic mobilization. Academic freedom maintains the illusion of an autonomous university space in a militarized and corporate society such as the United States and in a “surveillance soci- ety and post-Constitutional garrison state” that continues to be consolidated under Obama, as suggested by Dominguez and other authors.97 is does not mean giving up entirely on invoking academic freedom, for it can be, and is, o en strategically used as a minimal line of defense to introduce criti- cal ideas and broaden public debates within the academy. However, progres- sive campaigns organized around the principle of academic freedom often run into a profound fault line in their mobilization, if not also organized around larger political principles. In our experience, campaigns focused on organizing in defense of scholars targeted since 9/11, especially those work- ing in Middle East and Palestine studies, o en end up struggling with these same contradictions if they attempt to cohere simply around “academic free- dom” rather than a more rigorous (progressive) political consensus, given how fractured the academic le is when it comes to Middle East politics and Israel-Palestine. Critics of the academy, such as Readings, make a fundamental point: “ e University is not going to save the world by making the world more true,” and it must be viewed as all institutions are, not as an exceptional space or site of radicalism and “redemption” but as a site where “academ- ics must work without alibis, which is what the best of them have intended to do.”98 In other words, the university is an institution within an impe- rial nation-state—a point understated by Readings—and so any struggle waged within or against it must not romanticize its progressive possibilities and must be squarely situated within a struggle that extends beyond its hal- lowed walls. is is what the Occupy movement, discussed at the outset, attempted to do on many campuses, and this is also why it was so brutally suppressed—because it made a linkage between the university and larger structures of power, as in earlier movements of student uprising, that was fundamentally threatening to the imperial university.

#### 2. Alt Causes- repression is done in more covert ways which the aff cannot resolve through just speech and it’s about the culture of Trump’s repression within the US that the aff can’t resolve either

### AT: Strossen 90- GB/Mich Reverse Enforcement

#### 1. Strossen’s incorrect- empirically flows neg

**Rumney 3** [32 Comm. L. World Rev. 117 (2003) The British Experience of Racist Hate Speech Regulation: A Lesson for First Amendment Absolutists, Rumney, Philip N. S. (Philip Rumney is a professor of criminal justice at Bristol Law School ); https://heinonline.org/HOL/Page?handle=hein.journals/comlwr32&start\_page=117&collection=journals&id=127 //BWSWJ]

In addition, it is clear that the incitement law in this country does not outlaw 'legitimate anger at real discrimination', just as it does not outlaw most expressions of racism. Rather, it draws the line at any speech that incites racial hatred. In other words, particular viewpoints are not outlawed. Rather, it is the manner in which the words are communicated that is regulated. It has also been suggested that Malik provides evidence that the incitement provision has been applied in a discriminatory manner.213 The problem with this claim is that there is absolutely no evidence to substantiate it. This claim appears to be based upon the grounds that Malik involved the prosecution of a black man. To suggest bad faith on the part of the Attorney-General, police, prosecutors, and several judges on such a flimsy basis is perhaps an indication of the weakness of much of the analysis in this area. Another version of this criticism is provided by Coliver who claims that incitement provisions 'lend themselves to abuse'.214 Why hate speech laws are inherently more likely to be open to abuse than a myriad of other civil and criminal laws is never made clear. In support of this claim Coliver cites the prosecution of black people noted earlier: 'the 1965 [Act] was used during its first decade more effectively against Black Power leaders than against white racists'.215 If by 'more effectively' Coliver is refer- ring to the number of prosecutions or convictions then her claim is misleading because it takes no account of why prosecutions were being instigated. In addition, she takes no account of the prosecution record after the mid-1970s. Similar criticisms can be made of the claim by Korengold that black people were, at least initially, 'dispro- portionately prosecuted' under the incitement provision.1 6 In this context Lester and Bindman noted in 1972 that 'there is a widespread and erroneous impression that most of the prosecutions [under the 1965 Act] have been brought against black people'.217 They also argue that the prosecutions directed at minorities were 'against a back- ground of growing anti-white invective by members of the Black power movement'.218 It is worth noting the statistical breakdown of prosecutions during the period when the 1965 Act was in force. Dur- ing this time there were prosecutions against fifteen individuals, with ten convictions. Five of the defendants were black and ten white. Of those convicted five were black and five white.219 It is also worth considering later prosecutions under the 1976 Act. Between 1976 and 1981 there were prosecutions against twenty-two individuals all of whom were white, with fifteen convictions. When one examines domestic commentaries to see if there is any support for the claim that the incitement provision has been abused we find only limited evidence. In the work of Williams, 2 21 Dickey,222 Lester and Bindman, 223 Leopold, 224 Bindman, 22' Gordon, 226 and Cotterrel1 227 we find criticism of the legislation, but few make allega- tions of anything approaching an abuse of prosecutorial discretion. 28 One of the exceptions is an early commentary by Longaker, who questioned the decision to prosecute the defendant in Malik. He ar- gued that where people such as Malik are not heard, the 'political system is correspondingly impoverished' 2 9 and that the incitement provision was 'not only short sighted but can easily exacerbate the problem [of racism]'. 231 Another early commentary argued that the wording of the incitement provision was 'potentially wide', 231 though as already noted, this does not appear to have caused significant problems. It appears that much of the criticism has been levelled at the fact that it is difficult to gain convictions under the incitement 232 law. The claim that the incitement provision has been abused is further undermined by factual errors. In partly drawing upon the work of Neier, Strossen claims that the Race Relations Act 1965 has been: regularly used to curb the speech of blacks, trade unionists and anti- nuclear activists. In perhaps the ultimate irony, this statute which was intended to restrain the neo-Nazi National Front, instead has barred 33 This statement contains numerous factual errors. The curbs on 'trade unionists' were neither legal restrictions, nor did they have anything to do with the incitement provision.234 Neither were the prosecutions against peace activists. These were actually prosecutions brought under the Public Order Act 1936 and official secrets legislation as noted by Neier, but not Strossen.235 The curbs on the Anti-Nazi League involved temporary restrictions on public processions in an area where the police believed there was a serious danger of public disorder:236 a crucial point ignored by both Strossen and Neier. Cru- cially, these restrictions were not imposed under the Race Relations Act 1965, as there were and are no provisions under the incitement law that give the police any powers to ban demonstrations. 2 3 Rather, the law under which these restrictions were imposed was the Public Order Act 1936 which was introduced interalia to clarify: how the authorities could judge a meeting or procession within existing case law; whether they were designed to convert ... or intimidate. It also attempted to increase protection for those subject to abuse or phys- ical violence but stopped short of defending specific minorities or outlawing named organisations.

#### 2. The Strossen evidence cherrypicks UMich empirics- they are super progressive now and are effective with their codes

#### 3. Britain is outdated- it’s from 50 years ago and doesn’t state that race relations have gotten worse- globally, they’ve gotten better because of codes

**Bell 09** [Bell, Jeannine (2009) "Restraining the Heartless: Racist Speech and Minority Rights," Indiana Law Journal: Vol. 84: Iss. 3, Article 9. Available at: http://www.repository.law.indiana.edu/ilj/vol84/iss3/9 ] NB

Canada, Denmark, France, Germany, and the Netherlands have fairly similar hate speech laws, which commentators say are actively enforced. Hate speech laws in these countries have both criminal and civil penalties and are premised on the need to protect human dignity "quite apart from any interest in safeguarding public order."' 1 4 A conviction under the criminal incitement laws of Canada requires proof ofeither intent to incite hatred or, in the alternative, the likelihood of breaching the peace. By contrast, one can be convicted under the hate speech laws of France, Denmark, Germany, and the Netherlands without intending to incite hatred and without having breached the peace. 10 5 The approach taken by countries around the world to place restrictions on racist speech is also reflected in the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination. These human rights instruments, though they explicitly protect freedom of expression, also recognize the link between hate speech and discrimination and allow significant restrictions on hate speech. 106 Article 20(2) of the International Covenant on Civil and Political Rights states that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."' 0 7 Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination requires governments to outlaw all dissemination of ideas based on racial superiority or hatred. It also requires them to prohibit all organizations which promote and incite racial discrimination.

#### 4. Classifying hate speech is clear-cut

- not a reason to reject regulation

Rosenfeld 01 [Michel Rosenfeld (Justice Sydney L. Robins Professor of Human Rights, Benjamin N. Cardozo School of Law), "HATE SPEECH IN CONSTITUTIONAL JURISPRUDENCE: A COMPARATIVE ANALYSIS," Jacob Burns Institute for Advanced Legal Studies, 2001]

Unless one adopts a Holmesian view of speech139 , the “slippery slope” argument is largely unpersuasive, and this seems particularly true in the context of hate speech. Indeed, in many cases, such as those involving Holocaust denial, cross burning, displaying swastikas, calling immigrant “animals”, there do not appear to be any line drawing problems. These cases involve clearly recognizable expressions of hate which constitute patent assaults against the most basic dignity of those whom they target, and which fly in the face of even a cursory commitment to pluralism. On the other hand, there are cases of statements, which some groups may find objectionable or offensive, but which raise genuine factual or value based issues, and which ought therefore be granted protection. For example, strong criticism of the Pope for his opposition to contraception and to homosexual relationships as being “indifferent to human suffering caused by overpopulation and an enemy of human dignity for all” may be highly offensive to Catholics, but even in a country in which the latter are a religious minority should clearly not be in any way censored, punished or officially characterized as hate speech. There is of course a grey area in between these two fairly clear cut areas, in which there are difficult line drawing problems, as exemplified by the German controversy over the claim that “soldiers are murderers”140 . Line drawing problems, however, are quite common in law as they tend to arise whenever a scheme of regulation attempts to draw a balance among competing objectives. This problem may well be exacerbated when a fundamental right like free speech is involved, but that justifies at most deregulating the entire gray area, not toleration of all hate speech falling short of incitement to violence.

### AT: Calleros – Reverse Enforcement Against Black Youth

#### 1. They’ve cherrypicked examples of when minorities have been perceieved as hostile, i.e. an African American expressing radical race views, or another student depicting violence in their drawings of Malcolm X- two empirics don’t justify the claim

#### 2. Student activism, civic engagement and protests are at an all-time high even with speech codes

**HERI 16** [Higher Education Research Institute. “College students’ commitment to activism, political and civic engagement reach all-time highs”. UCLA Newsroom. February 10, 2016. <http://newsroom.ucla.edu/releases/college-students-commitment-to-activism-political-and-civic-engagement-reach-all-time-highs>. ]

Colleges and universities across the U.S. experienced an increase in student activism over the past year, as students protested rising college costs and hostile racial climates on their campuses. Now, findings from UCLA’s annual CIRP Freshman Survey (PDF) suggest that participation in demonstrations may intensify in the months ahead. The survey of 141,189 full-time, first-year students from around the U.S. found that interest in political and civic engagement has reached the highest levels since the study began 50 years ago. Nearly 1 in 10 incoming first-year students expects to participate in student protests while in college. The survey, part of the Cooperative Institutional Research Program, is administered nationally by the Higher Education Research Institute at the UCLA Graduate School of Education and Information Studies. The 8.5 percent who said they have a “very good chance” of participating in student protests while in college represents the highest mark in the survey’s history and is an increase of 2.9 percentage points over the 2014 survey. Black students were the most likely to expect to protest, with 16 percent reporting that they had a very good chance of demonstrating for a cause while in college — 5.5 percentage points higher than in 2014. The rising interest in activism coincides with some recent successful protests by college students. After months of protesting a perceived lack of responsiveness by university administrators to racial bias and discrimination, University of Missouri students forced the resignation of the system’s president in November 2015. “Student activism seems to be experiencing a revival, and last fall’s incoming freshman class appears more likely than any before it to take advantage of opportunities to participate in this part of the political process,” said Kevin Eagan, director of CIRP. “We observed substantial gains in students’ interest in political and community engagement across nearly every item on the survey related to these issues.”

#### 3. Their evidence doesn’t make a comparative claim that says enforcement on average was against minorities rather than actual racist people, it omits those statistics which proves their authors are biased

### AT: Nichtern

#### 1. Sick tag for a card that’s not about speech codes or race specific- it ignores important aspects like psychological trauma, the increased likelihood of violence, and presents race as a neutral open opinion issue

#### 2. Counterspeech doesn’t happen – empirics prove.

**Nielsen ’09** (Nielsen, Laura Beth, Laura Beth Nielsen is professor of sociology at Northwestern University and research professor at the American Bar Foundation. She is the author of License to Harass. “License to Harass,” edited by Laura Beth Nielsen, Princeton University Press, 2009. ProQuest Ebook Central, http://hh7kl7za7m.search.serialssolutions.com/?ctx\_ver=Z39.88-2004&ctx\_enc=info%3Aofi%2Fenc%3AUTF-8&rfr\_id=info%3Asid%2Fsummon.serialssolutions.com&rft\_val\_fmt=info%3Aofi%2Ffmt%3Akev%3Amtx%3Abook&rft.genre=book&rft.title=License+to+Harass+%3A+Law%2C+Hierarchy%2C+and+Offensive+Public+Speech&rft.au=Nielsen%2C+Laura+Beth&rft.date=2009-01-10&rft.pub=Princeton+University+Press&rft.isbn=9780691126104&rft.externalDBID=n%2Fa&rft.externalDocID=445522&paramdict=en-US| SP)

Reactions and responses to racist and sexist street speech are the product of a complicated calculus made by the target of such speech. Some reactions are overt forms of resistance and convey a message to the speaker and everyone else who witnesses such interactions. Far more common, however, is for targets to have a hidden response or to ignore the speech altogether. One interpretation is that targets of racist and sexist speech effectively and consistently respond with authority to those making the comments. Some First Amendment scholars whose model for combating racist and sexist speech with “more speech” may take heart in these results, claiming that they are evidence that simply allowing more speech is effective. Those who really are bothered by such speech will respond. This interpretation, however, ignores the silencing that such speech engenders in many of its targets. All targets, whether they reported responding to such speech or not, said that they weighed their options very carefully when deciding how to respond, and the most important factor that determined their response was their own safety in the situation. Just as some critical race scholars claim, these comments engender fear for physical safety (Delgado 1993). Since women are more likely to fear for their physical safety when they are made targets of sexually suggestive speech than are men when they are targets, “more speech” disproportionately burdens women by requiring that they place their safety in jeopardy more often than men. This is in addition to the burden placed by the “more speech” idea in the first instance. A second interpretation of these data is that there is very little resistance on the part of the targets. With some exceptions, targets mainly allow such comments to stand uncontested and leave the situation without engaging in counterspeech. By failing to contradict such comments, the targets of offensive public speech might be accused of tacitly participating in their own subordination. This interpretation belies the complicated processes that underlie targets’ decisions about protesting such comments. These data show that targets are inclined to respond but often are precluded from doing so because they fear for their safety. Targets’ options are limited. Racist and sexist speech are interesting sites for the study of power relations because they represent apparent and blatant invocation of power by one individual over another. The power of racism and sex-ism, while firmly socially entrenched, is contested in various ways, however. All power relationships involve contests between the suborddinate group and the powerful, but racism and sexism are unique in that there is growing recognition that racism and sexism are illegitimate axes of subordination, even by some members of the privileged group. Racist and sexist speech between strangers in public places violates social norms. This translates into permission to challenge racist and sexist speech in public places, but this can be done only when it is safe to do so. And, it is more common to challenge racist remarks than to challenge sexist remarks. This may be due to women’s physical vulnerability, but it also may be due to the ambivalence about sexually suggestive speech. Some people consider at least mild forms of sexually suggestive speech acceptable. These also are interesting moments in which to examine power relations because the relationships are transitory. But the hierarchies the interactions reinforce are not. Those who engage in active forms of resistance may be doing something serious to combat racism and sexism by managing to “redefine positively their general social position relative to the dominant group” (McCann and March 1996, p. 221). Active resistance occurs by making such interactions known—making people who are members of privileged classes know that they happen and happen with some regularity—by talking back in the moment (loud enough for others to over-hear) or by talking about them publicly as great injustices. But these acts of resistance are rare. Only certain (i.e., more often whites and more often men) members of the dominated group have the luxury of engaging in overt mechanisms of resistance. Even they are more likely to choose not to do so. We are left with a phenomenon that occurs often. In its racist and sexist form, it is a phenomenon that most people regard as a serious social problem. It is a problem most people think the law should not attempt to correct. Many people, including targets, think it should be dealt with through self-help. Yet when we investigate what actually happens in response to offensive public speech, targets tell us they usually do nothing. While begging is controlled through the deployment of official and informal mechanisms, sexist and racist public speech goes largely unchecked by formal or informal means

#### 3. The aff isn’t a creative approach- it’s one that doesn't work, prefer empirics over their esteemed arguments about warfare and conflict- that’s above

### AT: Herron- Chilling Effect

#### 1. No chilling effect

**Gelber & McNamara 15** [Katharine Gelber (Professor of Politics and Public Policy at the University of Queensland), Luke McNamara, "The Effects of Civil Hate Speech Laws: Lessons from Australia," Law & Society Review, 2015] AZ

What of the fourth and fifth claims, that hate speech laws have a chilling effect, discouraging people from engaging in robust political debate on important matters of public policy, or that they create free speech martyrs who use the regulatory system to gain prominence for their views? Our analysis of letters to the editor revealed little evidence that public discourse has been diminished over the past 25 years. Robust debates have been had on a broad range of issues including the land rights of Indigenous Australians, same-sex marriage, and the treatment of asylum-seekers. Our analysis revealed the continued expression of prejudice over time. The fact that we detected a shift away from more intemperate styles of language cannot be said to support the chilling effect claim. At the heart of this claim is a concern about the silencing of views and opinion. At the same time that Bolt claimed he was being “silenced” by hate speech laws, he was able to disseminate his views widely through prominent media attention (Gelber and McNamara 2013: 474–76). Therefore, although the distinction may be contentious, we distinguish between desirable and undesirable effects. Hate speech laws are designed to influence the terms in which individuals express their views in public (desirable), however, they are not designed to make certain topics “off limits” (undesirable). Our research suggests that the risk of a chilling effect has not been substantiated. Australians are willing to express robust views on a broad range of policy issues.

#### 2. Colleges are increasingly progressive especially considering protests are high now which means that students are not afraid of the chilling effect and that it’s impact is low because the dominant agenda is the right one

#### 3. Absent a clear policy on speech- the chilling effect is more likely- the aff is equally arbitrary and can conflate certain types of speech with bad activities

**Juhan 12** S. Cagle Juhan (Judicial Law Clerk, Western District of Virginia; JD University of Virginia School of Law). “Free Speech, Hate Speech, and the Hostile Speech Environment.” Virginia Law Review. November 2012

Iota Xi Chapter of Sigma Chi Fraternity v. George Mason University) 70 illustrates the problem with **a discretionary system: government bureaucrats serve as roving commissioners, picking and choosing which speech to regulate,** often on the grounds that certain groups object to it. The danger is threefold. First, **the absence of a written policy leaves a vacuum.** By their very nature, **decisions made on a case-by-case basis lack debated, agreed-upon, and dis-seminated principles that can guide action**.’ Thus, one cannot ex ante abide by guidelines that are unknowable until after one speaks. **The result is the commonly cited “chilling effect”: speakers will say less, even if their speech would be constitutionally pro-tected, because they cannot be assured that they will not be pun-ished for** it.‘ **Second, informal, standardless decision-making processes about what speech should be allowed** are viewed with particular skepti-cism in First Amendment doctrine because they both **contribute to the chilling effect and enhance the risk of discriminatory or arbi-trary regulation**.’ **Ad hoc judgments allow universities to sanction speech** because they disapprove of it, which is precisely the out-come that the First Amendment was designed to prevent.‘The third and related concern is that **administrators are easily captured by campus constituencies that mobilize against hateful or merely unpopular speech**.’ The Iota Xi case offers a clear example of this problem. Students objecting to the fraternity’s speech convinced an administrator that the speech created a hostile educational environment and conflicted with the university’s mission; administrators subsequently imposed sanctions, despite not having done so in an initial meeting with the fraternity that occurred the same day as the one with the offended students. The risk of “captured” administrators is especially high when hate speech is at issue.’ Hate speech frequently targets minorities or historically disfavored groups. These constituencies, in addition to understandably disagreeing with hate speech that disparages them, are some of the most vocal proponents and defenders of the equality, diversity, and tolerance norms that have gained incredible purchase in the realm of higher education. Accusations or percep-tions that a university or its administrators are not sympathetic enough to these norms or to the groups invoking them can have adverse consequences for a university’s prestige and an administra- tor’s career.’ Therefore, **there are strong personal and institutional incentives** to err on the side of equality, diversity, and tolerance ideals and against constitutionally protected speech.‘ One observer has aptly termed **ad hoc decision-making processes “implicit speech codes**.” ’ Ultimately, however, whether ex-plicit or implicit, speech codes increase (1) the chilling effect on speech, (2) the danger of viewpoint discrimination, and (3) the op-portunity for constituencies to suppress opponents by capturing administrators.’

### AT: Lukianoff

#### 1. Their solvency is nonunique- speech codes are not mutually exclusive with open dialogue

**Delgado and Yun 94** [Richard Delgado (Professor of Law @ University of Colorado, JD, 1974 University of California Berkeley)and David H. Yun (Member of Colorado Bar. JD 1993, University of Colorado), “The Neoconservative Case against Hate-speech regulation- lively, d’souza, Gates, Carter, and the toughlove Crowd” Vanderbilt Law Review. 1994.] NB

How should we see the bellwether argument? In one respect, the argument does make a valid point. All other things being equal. the racist who is known is less dangerous than the one who is not.“ What tbe argument ignores is that there is a third alternative, namely the racist who is cured, or at least deterred by rules, policies, and official statements so as to no longer exhibit the behavior he or she once did. Since most conservatives believe that rules and penal- ties change conduct (indeed they are among the strongest proponents of heavy penalties for crime). the possibility that campus guidelines against hate speech and assault would decrease those behaviors ought to be conceded.“ Of course, the conservative may argue that regula- tion has costs of its own-something even the two of us would con- cede-but this is a different argument fi'om the bellwether one." A further neoconservative objection is that silencing the racist through legislation might deprive the campus community of the “town hall” opportunity it has to discuss and analyze issues of race when incidents of racism come to light.” But campuses could hold those meetings and discussions anyway. The rules are not likely to suppress hate speech entirely; even with them in place, there will continue to be some number of incidents of racist speech and behavior. The difference is that now there will be the possibility of campus disciplinary hearings, which are even more likely to instigate the “town hall” discussions the argument assumes are desirable. Because the bellwether argument ignores that rules will have at least some edifying effect and that there are other ways of having campuswide discussions short of allowing racial confrontation to flourish, the argument appears to deserve little weight

#### 2. Echo chambers create sustainable environments for minorities because dialogue with the opposing side has been rendered impossible—solutions can be created within the chamber

**Pavlovitz 2-16** [John Pavlovitz, February 16, 2017 "In Defense of the Echo Chamber," john pavlovitz, <http://johnpavlovitz.com/2017/02/16/in-defense-of-the-echo-chamber/>] NB

On the surface it sounds like a sensible question. There is of course, wisdom in the idea of not sequestering yourself away from dissent to the point that you’re only preaching to the adoring choir of those who agree with you. And yes, open, reasonable dialogue with those whose opinions differ from your own is healthy and often redemptive. It’s a worthy aspiration. The problem is, it’s becoming less and less possible. The President and his spokespeople are making sure of that, and an all-or-nothing media adverse to nuance combined with intellectually lazy citizens are helping him. These days I’m beginning to believe that maybe the echo chamber is actually not the worst place to be. And in times like this when things have gotten really ugly—it might even save your sanity. We live in an America where FoxNews has brainwashed a portion of the adult population, rendering them fully immune to reason and deathly allergic to factual information. Add to that, a toxic cocktail of Nationalism, contempt for Government, and good old-fashioned bigotry, and some folks are simply impossible to engage in any meaningful and productive way. They are impervious to evidence. They are unreachable in the ways were taught to reach people. Worse than that, many emboldened by the President’s unapologetic cruelty, spend their days trolling strangers online, parroting the racist, anti-Muslim, anti-LGBTQ FoxNews talking points, and reveling in a coarseness that a year ago would have been deemed downright profane. They are making already vulnerable people feel more endangered than ever. It is a form of home-grown, virtual terrorism, and to ask people to expose themselves to that every day in the name of avoiding an echo chamber is manipulation of the worst kind. One of the truest examples of privilege, is when entitled white people chastise members of marginalized communities for their inability to get over things and get on with their lives. That’s the problem and the impasse: their lives are terribly altered. They are facing a daily assault on their identities, their families, their futures, and their sense of safety—and I am not comfortable demanding that these folks step into the line of fire in the name of cooperation with the bullies. It feels irresponsible. For many, the echo chamber can be a much-needed place of protection and safety; a place where their pain is acknowledged, their opinions are valued, their voices are heard, their inherent worth is recognized. It can be a place where they find solidarity and affinity. Why would I or anyone else demand that they step out of this and be exposed to the poisonous venom of extremists and trolls, who in essence sanctioned their present suffering with their vote? That’s a really big ask. Like many people, I’ve disconnected with friends, family members, and co-workers in the aftermath of the election—not because I can’t bear disagreement, but because I will not tolerate unrepentant racism, homophobia, bigotry, or misogyny. The “echo chamber” that may be naturally forming isn’t designed to stop conversation, but to eliminate unnecessary exposure to vile things. (If someone comes and defecates on your front porch, you’re going to clean it up and you’re make sure they don’t “darken” your doorway again. We’d never feel the need to apologize for that.) For example, when someone is programmed by their preacher and FoxNews to make Muslim refugees all into would-be terrorists and their default response in discussing them is ugly slurs and lazy stereotypes, I often need to step away. It’s very difficult to work with blind hatred that refuses to be informed by the truth, as gently and thoughtfully as it might be delivered. And the thing is, in many ways the echo chamber can still be big enough for a majority of us to renovate the country in meaningful ways. With tens of millions of like-hearted people, we can do beautiful, life-saving, planet-altering work together and not have to be exposed to behavior that dehumanizes us or anyone else. We can use our shared influence to push back against all that feels so wrong in the world. We can shape policy and create positive change. So the parameters of the echo chamber can be wide enough for diverse thought, but include nonnegotiables that demand respect for everyone gathered. The invitation to the table is predicated on guests fully acknowledging the value of those seated around it. Reaching to the vast, rational, level-headed middle and crafting compromise in areas of disagreement is always going to be the noble and best path, but at this moment in time staying in a smaller circle may ultimately be a form of self-preservation, shielding you from abuse and violence and indignity, and allowing you to find encouragement. As a Women’s March attendee said to me, “I came here because needed to know that I’m not crazy.”) No, as a rule the echo chamber isn’t a place to spend your life, but as a temporary space to heal and rest and find some hope during really ugly days, as a spot to begin creating something meaningful in response to these disheartening days—it might be just what you need.

### \*\*Adv 2- Talk\*\*

### AT: Calleros 95- CounterSpeech

#### 1. They force the burden onto students and not every setting is as progressive as his examples- our evidence directly indicts theirs

**Delgado and Yun 96** [Richard Delgado (Professor of Law @ University of Colorado, JD, 1974 University of California Berkeley)and David H. Yun (Member of Colorado Bar. JD 1993 “THE SPEECH WE HATE”: FIRST AMENDMENT TOTALISM, THE ACLU, AND THE PRINCIPLE OF DIALOGIC POLITICS”. 1996. Arizona State Law Journal. <http://ssrn.com/abstract=2094597>. ] NB

Nothing that we said in either of the two articles causes us to disagree with Professor Calleros. Talking back sometimes works. We would just note two reservations. The first is that the talking back solution puts the onus on young minority undergraduates to redress the harm of hate speech. This is a burden to them, one they must shoulder in addition to getting their own educations. In other words, in addition to educating themselves, they must educate the entire campus community, and do so every time a racial incident takes place. Second, it would be a serious mistake for Professor Calleros' readers to generalize from his sunny and optimistic experience. Not every setting is as progressive, supportive, and loving as A.S.U. and Stanford University. Some campuses do not enjoy a strong norm of civility or respect for people \*1282 of color. And this is certainly true of hundreds of noneducational institutions, such as the military, fraternities, and certain sport teams. And it is even more true of the many ugly street encounters minorities suffer daily. In many of these settings, talking back is not an option. In others, it would be foolhardy, because of the imbalance of power. Ivory tower academics must be careful of generalizing from one or two experiences in which speech-their favorite mechanism-seemingly has worked. The social history of pornography and hate speech in the United States argues for caution, and for a multitude of approaches, not just one. In general, we believe that traditional defenders of free speech must beware of the tendency to light upon a single solution to a complex problem. The purpose of this essay is to explore a type of unitary or essentialist thinking that we find prevalent in First Amendment absolutist circles. Although we welcome Calleros' article, we think that it has overtones of this simplistic one-size-fits-all approach. It is in the hope that the future discussion of hate speech will someday exhibit the kind of nuance that we see in other areas of constitutional law, for example equal protection, that we write this essay.

#### 2. Counterspeech fails – empirics and people can’t be counted on

**Maitri and Mcgowan ’12** (Ishani Maitra is Assistant Professor of Philosophy and Women's and Gender Studies at Rutgers University. language, feminist philosophy, and philosophy of law. Mary Kate McGowan is Professor of Philosophy at Wellesley College. She received her PhD from Princeton. She works in metaphysics, philosophy of language, feminism, and philosophy of law. September 2012. “Speech and Harm: Controversies Over Free Speech” <https://books.google.com/books?id=QHjC6lhVROAC&pg=PA144&lpg=PA144&dq=counter+speech+%2B+ineffective&source=bl&ots=HhzA2FzR5I&sig=x_PyzgR-xS8_m6xikBpTkiD-EOg&hl=en&sa=X&ved=0ahUKEwi9wLLb-ofTAhUEsVQKHeoyAGEQ6AEIUTAJ#v=onepage&q=counter%20speech%20%2B%20ineffective&f=false> | SP

Finally, one might be resistant to new legislation exactly because one does not believe that the proper remedy for harmﬁll speech lies with the law. Many, for example, believe that counter-speech is the proper remedy. There are several things to say in response to this. First, it is not at all clear that more speech is the proper remedy for harmful speech. After all, one of the consequences of harmful speech is to disable the speech of the addressee.38 Furthermore, the empirical evidence demonstrates that such counter-speech rarely, in fact, occurs and when it does it is ineffective.39 Second, it seems obviously correct for the law to prohibit ‘Whites Only’ signs and other forms of verbal discrimi- nation. Moreover, it seems plainly inadequate to expect counter-speech to remedy such verbal acts of discrimination. Since we are here targeting that subset of racist hate speech that does the same thing (as a ‘Whites Only’ sign), comparable legal treatment seems appropriate (at least in the absence of a persuasive argument to the contrary). Finally, in expecting counter—speech to remedy the harms of racist speech, it seems naive to think that people can be counted on to do the right thing. After all, all too often we don’t.

### AT: Herron 94—HS 🡪 Backlash

#### 1. They don’t have a legitimate empiric of when backlash occurred at a university that had speech codes, the card talks about how hate speakers won’t consider rehab- A. why would they have went to rehab in the first place if it’s in their culture, B. there is no evidence in the aff that solves rehab issues

#### 2. The impact of this arg is that we won’t be able to find racist movements and dispand them- but protests are already high right now- that’s HERI- which proves that we already know how to disband their movements

### AT: Strossen 90- Censorship = Glory

#### 1. No martyr effect – only one case in two decades of hate speech regulation in Australia

**Gelber & McNamara 15** [Katharine Gelber (Professor of Politics and Public Policy at the University of Queensland"The Effects of Civil Hate Speech Laws: Lessons from Australia," Law & Society Review, 2015]

No other case in over two decades of civil litigation has triggered a comparable martyr effect. Recalcitrant Holocaust denier Frederick Toben attempted to adopt a martyr position when he was found to have breached the same federal racial hatred law years earlier.39 His refusal to abide by orders of the Federal Court to remove Holocaust denial material from his Web site resulted in 24 contempt of court findings and, ultimately, a 3 month jail term for contempt of court (Akerman 2009). However, in public discourse this attempt served to consolidate his infamy and status as a powerful illustration of precisely why hate speech laws were enacted in the first place (Aston 2014; Richardson 2014). Two distinctive features of Australia’s hate speech laws are noteworthy here. First, given, that most transgressions of the law are addressed in confi- dential conciliation, with less than 2 percent resulting in court or tribunal decisions that enter the public domain, opportunities for martyrdom are rare. Second, because the laws rely overwhelmingly on civil remedies, they tend not to produce the criminal sanctions on which the claimed martyr effect is based. The Bolt controversy does not justify a general conclusion that hate speech laws necessarily produce a counterproductive martyr effect, as it was an atypical event in the history of civil hate speech laws in Australia.

#### 2. Cross apply Parkeh 12 –the amount of hate speech goes down since most people don’t want to be associated with them

#### 3. No impact- their evidence just says that they end up getting attention- not that it actually begins a movement

### AT: Gelin 14- Spencer Martyr

#### 1. The evidence doesn’t make a comparative claim in that they were not white nationalists or supporters of him before the incident. The evidence rather states that they were already supporters who just decided to show up at his rally

#### 2. Speech codes were also effective in this instance in that they decreased the amount of people who showed up to his meeting,

#### 3. the arrest and violatiosn were made in Hungary which may have different context that isn’t controlled for – don’t prefer it

### AT: Gates- Civil Protections

#### 1. No internal link- None of the evidence proves that the Skokie case from 79 has been able to generate free speech rights for minorities in the future- especially when their own uniqueness evidence in the aff indicates that codes consistently have hurt them

#### 2. Empirically denied- Free speech has not served as a catalyst for change- empirics

**Delgado and Yun 94** [Richard Delgado (Professor of Law @ University of Colorado, JD, 1974 University of California Berkeley)and David H. Yun (Member of Colorado Bar. JD 1993, University of Colorado), Pressure Valves and Bloodied Chickens: An Analysis of Paternalistic Objections to Hate Speech Regulation, 82 Cal. L. Rev. 871 (1994). Available at: <http://scholarship.law.berkeley.edu/californialawreview/vol82/iss4/5>] NB

Many absolutists and defenders of the First Amendment urge that the First Amendment historically has been a great friend and ally of social reformers. Nadine Strossen, for example, argues that without free speech, Martin Luther King, Jr. could not have moved the American public as he did. 8 Other reform movements also are said to have relied heavily on free speech.6 9 This argument, like the two earlier ones, is paternalistic-it is based on the supposed best interest of minorities. If they understood their own best interest, the argument goes, they would not demand to bridle speech. The argument ignores the history of the relationship between racial minorities and the First Amendment. In fact, minorities have made the greatest progress when they acted in defiance of the First Amendment.70 The original Constitution protected slavery in several of its provisions,7 1 and the First Amendment existed contemporaneously with slavery for nearly 100 years. Free speech for slaves, women, and the propertyless was simply not a major concern for the drafters, who appear to have conceived the First Amendment mainly as protection for the kind of refined political, scientific, and artistic discourse they and their class enjoyed. nearly 100 years. Free speech for slaves, women, and the propertyless was simply not a major concern for the drafters, who appear to have conceived the First Amendment mainly as protection for the kind of refined political, scientific, and artistic discourse they and their class enjoyed. 72 Later, of course, abolitionism and civil rights activism broke out. But an examination of the role of speech in reform movements shows that the relationship of the First Amendment to social advance is not so simple as free speech absolutists maintain. In the civil rights movement of the 1960s, for example, Martin Luther King, Jr. and others did use speeches and other symbolic acts to kindle America's conscience.73 But as often as not, they found the First Amendment (as then understood) did not protect them.7 4 They rallied and were arrested and convicted; sat in, were arrested and convicted; marched, sang, and spoke and were arrested and convicted.75 Their speech was seen as too forceful, too disruptive. Many years later, to be sure, their convictions would sometimes be reversed on appeal, at the cost of thousands of dollars and much gallant lawyering. But the First Amendment, as then understood, served more as an obstacle than a friend.76 Why does this happen? Narrative theory shows that we interpret new stories in terms of the old ones we have internalized and now use to judge reality.7 7 When new stories deviate too drastically from those that form our current understanding, we denounce them as false and dangerous. The free market of ideas is useful mainly for solving small, clearly bounded dis- putes.78 History shows it has proven much less useful for redressing sys- temic evils, such as racism. 79 Language requires an interpretive paradigm, a set of shared meanings that a group agrees to attach to words and terms.8 0 If racism is deeply inscribed in that paradigm-woven into a thousand scripts, stories, and roles-one cannot speak out against it without appear- ing incoherent. t An examination of the current landscape of First Amendment excep- tions reveals a similar pattern. Our system has carved out or tolerated doz- ens of "exceptions" to the free speech principle: conspiracy; libel; copyright; plagiarism; official secrets; misleading advertising; words of threat; disrespectful words uttered to a judge, teacher, or other authority figure; and many more. 2 These exceptions (each responding to some inter- est of a powerful group)83 seem familiar and acceptable, as indeed perhaps they are. But a proposal for a new exception to protect some of the most defenseless members of society, 18-year old black undergraduates at predominantly white campuses, immediately produces consternation: the First Amendment must be a seamless web. It is we, however, who are caught in a web, the web of the familiar. The First Amendment seems to us useful and valuable. It reflects our inter- ests and sense of the world. It allows us to make certain distinctions, toler- ates certain exceptions, and functions in a particular way we assume will be equally valuable for others. But the history of the First Amendment, as well as the current landscape of doctrinal exceptions, shows that it is far more valuable to the majority than to the minority, far more useful for confining change than for propelling it.8"

#### 3. Link Turn- Supporting the most extreme cases kills movements- their Skokie example proves

**Horowitz 79** [Horowitz, Irving Louis. Bramson, Victoria Curtis. (Professor of Sociology and political science at Rutgers University and editor-in-chief), (Deputy Attorney General. Division of Criminal Justice.” “Skokie, the ACLU and the Endurance of Democratic Theory”. Spring 1979. http://scholarship.law.duke.edu/lcp/vol43/iss2/17] NB

The ACLU, as a result of its support of Nazi rights, has suffered angry criticism and close to 25 percent withdrawal. David Goldberger noted that "nearly 2,000 of the 8,000 members of the Illinois ACLU have resigned in the year following Skokie. 20 ° The Anti-Defamation League of B'nai B'rith has argued that free speech could be restrained in this case because of the "psychic trauma ' ' z that would result if the Nazis marched and displayed their swastikas. Various branches of the ACLU, like those in St. Louis, Houston and Jackson (Mississippi) voted not to aid the American Nazi party, although it did so in one instance because of the direct inflammatory appeal of a $5,000 bounty "for every non-white person arrested or convicted for an attack on a white person." 22 Clearly, in this instance, Jews were classified with the nonwhite population. The ACLU position is based on First Amendment guarantees of unimpeded free speech for all Americans. The ACLU was careful to distinguish between support for free speech and support for the ideology of the National Socialist Party of America. Rather than push this distinction, or for that matter obliterate it as a mere legal artifact, it might be worthwhile first to outline the legal precedents; second, the extra-legal implication; and third, the issues raised by Skokie.

### Underview

#### 1. Do not let the 1AR collapse to a specific solvency mechanism and one uniqueness card that indicts speech codes- that doesn’t get rid of our responses to other cards because they can be applied to different argumetns- if anything the 2NR gets to do those new applications

#### 2. No 1AR framing about uniqueness- their impacts are linear which means they have to prove the aff is better than the squo or a competitive policy option

### \*\*Not Most Recent vs Their Aff\*\*

### AT: Gates 94 [State Antiblack]

#### 1. The 1AC also trusts the very same institutions that they criticize us for using free speech codes. If the systems are truly antiblack, the aff relies on people enforcing free speech law, people who are punished, are still part of those institutions

#### 2. The 1AR doesn’t get to go for uniqueness framing because overt racism is still worse, it causes direct harm, and increases violence. If the aff wins’ their framing- their impacts are linear which means they have to prove the aff is better than the squo or a competitive policy option

### AT: Gates 94- Race Codes Get Coopted

#### 1. Their card only taks about Matsuda’s interpretation of historically oppressed groups- that’s based on a brightline theory which fails because:

#### A. It commits the fallacy of Loki’s wager- you could keep asking where the brightline is and finally shift it away from the entire issue

#### B. Nonunique with the entire aff- they aren’t able to figure out which type of speech they promote can be identified as activist speech or hate speech

#### The impact is that their examples cannot be extended to many instances in different issues

#### 2. Cards above prove that courts and contexts solve- like the Parekh 12 evidence

### AT: Strossen- Social Studies

#### Strossen’s counterspeech fails – people won’t speak out if they are in the position to be harmed.

Brown 15 Alexander Brown is Senior Lecturer in Contemporary Social and Political Theory at the University of East Anglia (UEA). “Hate Speech Law: A Philosophical Examination.” Routledge, 2015.

Of course, the direct targets of hate speech do not exhaust the claw of persons entitled to speak back to hate speech. They have other advocates or potential advocates who may speak back on their behalf. Strossen offers the following anecdotal evidence. '1 have seen many situations in which the per who is attacked initially cannot respond I... but somebody else jumps into the fray and speaks out, and that empowers and encourages the tar-geted individual victim' (e.g., Strossen 2012: 380) However, Strossen over-looks the fact that similar sorts of problems as those expounded upon above are also likely to confront third parties who are considering speaking back on behalf of the victims of hate speech. For example, it is often assumed that the Internet affords greater opportunities for counterspeech than ever before. It is relatively inexpensive, fast, and open to the whole community. But the fact that the Internet is so public means that it is a place of danger as well as opportunity for potential counterspeakers. Anecdotal evidence suggests that some people, potential "good Samaritans", may be too scared to speak out against hate speakers on Twitter for fear of provoking vitriolic abuse at the hands of these or yet other hate speakers who use this service. It is also worth noting that if Internet regulators were granted a legal or even an industry mandate to restrict uses of hate speech over the Internet, this would not deny people the right to speak back to offline hate speech online, and may even empower and encourage more of the very speaking back that Strossen to admires. Intriguingly, Strossen argues that if institutional authort-ies deny persons the right to engage in hate speech and this successfully deters them from doing so, then the upshot is that people are denied a chance of speaking back against hate speech (Strossen 2012: 3 86-387). But I think there is perversity in a logic that says we ought to let something harmful happen just to give people the opportunity to speak out against it. Surely the victims of hate speech would say, "Let's lust try to stop the hate speech if we can, and not worry so much about the counterspecch if we are successful."

# 2NC

## Case Collapse

### 2NC- OV

#### Speech codes are uniquely effective because empirically they have worked, they diminish right wing movements and they bring together marginalized groups- that’s Parekh 12

#### Now- impact analysis- it was concedd in the 1AR, and that means the DA is the highest impact layer, which also indicates that a risk of a link magnifies the impact and it outweighs the case. Don’t allow new 2AR responses or weighing because we don’t have a 3NR to respond to it

#### 2 Major warrants

#### 1. Magnitude- allowing hate speech creates a notion that it is a permissible form of discourse which increases the likelihood of individuals to carry out hate crimes and oppress minorities because they internalize this notion that they are the higher power

#### this outweighs the case benefits because it’s a materially evident impact

#### 2. Inclusivity- there is less discursive participation from the minorities which turns the aff at it's solvency layer because the majorities are the one's who benefit from contributing their ideas into the marketplace of free ideas—that's Horne

### HS O/W Legal Precedent

1. timeframe- hate speech happening now, we don't know when legal precedent will help
2. alt causes- there are a ton of other ways for precednets to have been established
3. scale- the law has never been particularly effective at protecting people that’s the aff’s evidence

### HS O/W Reverse Enforcement

1. scale- being silenced is not as bad as having psycolgocila trauma fro having bad things said to you.
2. Internal link- people who are psychologically hurt don’t feel the desire to speak out because they are afraid that they will get hurt
3. Scope- the amount of people silenced by speech codes are much smaller than the amount of people who are affected by hate speech, hate speech is normalized, but censorship gets more public outry- that's also their evidence.